

The Unexpurgated Pike Report

Forward by Philip Agee

**Report of the
House Select Committee
on Intelligence, 1976**

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lect Committee on Intelligence, 1976

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Preface

In early March of 1991, at about the time that the Kurds were being massacred in Northern Iraq after the Gulf War, I saw my first copy of the Pike Commission Report.

A number of people were talking after a symposium on free speech issues. Paul Muth, a Champaign-Urbana activist and host of a talk show on a local public radio station, WEFT, had obtained a copy of the report, and was reading aloud about the massacre of the Kurds which had taken place in the 70s -- an obviously timely bit of history. He seemed especially to relish repeating the quote attributed to Henry Kissinger, that "covert aid is not to be confused with missionary work." (See page 138 of this document.)

By coincidence a few weeks later, Daniel Schorr -- the reporter who had leaked the Pike Report to the *Village Voice*, refused to reveal the source of the leak to Congress at the risk of a contempt citation, and lost his job at CBS -- came to speak at the University of Illinois as part of another symposium, on the behavior of the press during the Gulf War. Muth and several friends were distributing flyers noting Schorr's role in the release of the Pike Report, and the report's relevance to the just-then-completed rout of the Kurds. In the Q and A session, I asked Schorr to comment on the Pike Report, which, I noted, had never been published in its entirety in the U.S. (Various abridged volumes, printed by foreign publishers, were scattered in academic libraries.) Schorr noted that it had virtually all been published in the *Voice*, though he agreed that this did not leave it readily available to the public. He then said that, it being fifteen years after the leak, he would no longer object to making available his own unabridged version of the report to anyone who wanted it.

By yet another coincidence, I had just agreed to teach what is sometimes called the "monster section" of Political Science 150, "Introduction to American Government," one year hence. 1200 students per semester sign up for this course. The publisher who produced the textbook I favored was willing to publish additional material to accompany the textbook, at a nominal fee as an inducement for me to adopt their text. They had in mind a personalized study guide. Suddenly, I had in mind the Pike Report.

With the help of Schorr's assistant at National Public Radio, Amy Holmen, I obtained a photocopy of the Report. Over the summer of '91, I retyped it. My poor progress by October of '91 meant I had to seek typing help from Sheila Kovalcik, Sandy Quillman, Barbara Kieseewetter, Octavia Florence, and Beth Riefsteck, which I gratefully acknowledge.

A colleague of mine, Dr. Joseph Miller, happened to own one of the foreign copies of the Pike Report, published by the Bertrand Russell Peace Foundation, of London. In addition to most of the Pike Report, that edition contained a lucid introduction to the report by former CIA agent and thenceforth CIA critic Philip Agee. Agee sets the scene which leads to the production of the report, summarizes its findings, and most importantly details the aftermath -- the suppression of the report -- its suppression, Schorr's firing, and the destruction of Otis Pike's political career. Jon Earl of McGraw-Hill was kind enough to obtain permission from the Foundation (after convincing them that they had in fact published such a book so many years before) for Agee's introduction to be reproduced here. I thank them for that, and for their initial publication of the report.

To my knowledge, this is the first publication of the complete and unabridged Pike report. Except for correction of some typographical errors (and, doubtless, insertion of others),

the text is exactly as it appeared then. In a number of cases, information is missing from the draft; this is noted in the text with the following symbol: | |.

The Pike Report touches on most of the themes I cover in my course introducing students to American government: separation of powers; civil liberties; the roles of the media, parties, and interest groups; the operation of Congress and the Presidency; the conduct of foreign and domestic policy; the role of information in government; and most importantly the function of unelected intelligence agencies in shape events at home and across the world. I could assign any number of books on such topics -- Philip Agee's works prime among them -- and they would all suffer from the same problem of credibility. My students don't know Agee (nor do I), and our choice whether or not to believe his reporting is largely a matter of taste and faith. Here, by contrast, we have a government document -- the fruit of a Congressional investigation -- which was ultimately suppressed by the House of Representatives not because it was false, *but because it was true*. It gave away "state secrets" -- information about the operation of government that students beginning the study of government need to know.

And, being in the public domain, the price is right. I hope students and others find it intriguing and useful. Even sixteen years after (non-)publication, it is still all too timely.

Gregory Andrade Diamond

*Urbana, Illinois
October, 1991*

Introduction, by Philip Agee

"Pike will pay for this, you wait and see . . . We will destroy him for this."¹

Strong words, quoted on the floor of the US House of Representatives by Congressman Otis Pike himself. He was quoting from an alleged threat made by Mitchell Rogovin, the CIA's Special counsel for legal affairs, to Searle Field, staff director of the House Select Committee on Intelligence headed by Pike. According to Pike, the CIA's Counsel went on:

"I'm serious. There will be political retaliation. Any political ambitions in New York that Pike had are through. We will destroy him for this."²

Pike's revelation of the threats, which were immediately denied by the CIA's Counsel, came on March 9, 1976, a month after his committee for investigating the CIA had submitted its recommendations and gone out of existence. Even if the threats were never made, or if they were in fact expressed in a milder, more suggestive fashion, they were consistent with the controversy within the committee and its stormy relations with the executive branch that had prevailed from the time the committee was established thirteen months earlier.

In his denunciation of the threats, Pike was reacting to a series of events that culminated only days earlier when New York's weekly *Village Voice*, in special supplements on February 16 and 23, 1976, published most of the secret report based on the work of Pike's investigating committee. Publication of the report, highlights of which had already leaked into the press from January 20 onwards, provoked an emotional and angry outburst from Secretary of State Henry Kissinger who was criticized severely in the report for his "passion for secrecy" and for making false statements to the Congress. At a news conference Kissinger denounced the committee's "totally irresponsible behavior...the misuse of highly classified information in a tendentious and misleading manner [that] must do damage to the foreign policy of the United States...the use of classified information in a manner that is so distorted that the total impact is to produce a malicious lie...a new version of McCarthyism."³

Meanwhile a spokesman for the White House said President Ford believed the report published in the *Village Voice* was leaked by someone in the Congress, while Congressman Pike suggested that it was leaked by the Executive Branch to help the CIA by making the committee look bad. Only days later, in early March, the CIA claimed that the committee had failed to return, and couldn't find some 230 documents, at least some of which were classified secret, that the Agency had given the committee in the course of its investigation.

Pike had problems with his own House of Representatives as well. As significant leaks of the report began to appear in the New York Times and other publications during the last two weeks of January 1976, then-CIA Director William Colby pleaded with the House not to publish the report because to do so would damage the country's intelligence activities and endanger Agency operations. Then on January 29 the full House voted to suppress publication until the White House had been able to censor it - an action tantamount to a rebuke by the House to its own investigating committee. After the vote against him, Pike described his committee's work as "an exercise in futility" and lamented that the House "probably will not ever have a strong

oversight committee."⁴

Nevertheless, despite the House's submission to the executive, and despite renewed public sympathy towards the CIA with the executive's adroit manipulation of the killing of Richard Welch, the CIA Station Chief in Athens, in December, and despite the backlash against the continued leaks - not just from the House Report, it should be noted - despite all these factors militating against disclosure of the report, it got out.

In late January, someone still unidentified gave a copy of the report to Daniel Schorr, the CBS television news reporter based in Washington, who began using parts of the report in his broadcasting when its full publication was expected shortly - before the House voted to allow executive censorship. After the House vote, Schorr tried first to get the report published in book form, but in the anti-release-of-secrets atmosphere prevailing in February his only sure outlet was the *Village Voice*. After the *Voice* published, Schorr explained,

"I found myself unexpectedly, because of a surprise action by the House, in possession of possibly the only available copy of a report, bearing no classification on its face, its principal sensations already divulged...My problem was that doing nothing would mean that I would be suppressing a report that might be interesting as a matter of public record."⁵

Schorr's admission brought calls in the House for revocation of his Congressional press credentials while at the same time the Department of Justice pondered whether he should be prosecuted under the espionage laws - thus reviving First Amendment issues left unresolved when the "Pentagon Papers" trial of Daniel Ellsberg and Anthony Russo was aborted during the Watergate scandals. The House voted to have its ethics committee (House Committee on Standards of Official Conduct) investigate the leak, later appropriating \$150,000 for the effort. CBS, for its part, suspended Schorr from all reporting duties pending the outcome of the Congressional investigation. Schorr was clearly, and surprisingly, on the defensive.

What had happened in the United States during the two months since Welch's death? It seemed that the American public had had enough. Almost two years had passed, beginning with publication in May 1974 after a long court battle of *The CIA and the Cult of Intelligence*,⁶ during which one scandal and "abuse" after another were charged to the CIA, FBI and other security agencies. After an initial overlap with the Watergate episode and the end of the Nixon presidency, the scandals had grown dramatically with revelations of the CIA's subversion of the Allende government in Chile (Sept 1974) and of the CIA's massive, illegal domestic operations (December 1974). My own book on the CIA⁷ appeared first in January 1975, the same month President Ford appointed the Rockefeller Commission to investigate the CIA's domestic activities, and the same month the Senate established its investigating committee under Senator Frank Church. By February 1976 when the Pike Report was published, a large sector of the American public seemed not to want to hear it - some, no doubt, having no more stomach for scandal, disillusion and moral conflict; others, surly, because they were beginning to realize just how damaging the revelations had become.

In the midst of the controversy, on February 17, President Ford seized more initiative by announcing his "reform" plan for the CIA and other security services. With media coverage that only an American President can command, Ford described his executive order to strengthen the intelligence agencies, and he recommended to Congress a new law providing fines and prison terms for persons who disclose classified information. In his appeal for new legislation, Ford said,

"It is essential that the irresponsible and dangerous exposure of our nation's

intelligence secrets be stopped. Openness is a hallmark of our democratic society but the American people have never believed that it was necessary to reveal secret was plans of the Department of Defense, and I do not think they wish to have true intelligence secrets revealed either."⁸

Nevertheless the world already had the Pike Report, a truly extraordinary and revealing document, thanks to the persistence and courage of Otis Pike and the members of his committee, of Daniel Schorr, and of the *Village Voice*. When reading the report one should keep in mind not only the conflicting circumstances surrounding its original publication, but also the quite real possibilities that existed during the committee's early months, first that the committee would make no real investigation, or, second, that the committee would be abolished before even beginning its work.

Established by a House resolution in February 1975, the Select Committee on Intelligence was first placed under the chairmanship of Representative Lucien Nedzi of Michigan who was also the chairman of the House Armed Services Intelligence Subcommittee. Since this Subcommittee had for many years exercised the House's watchdog responsibility over the CIA, Nedzi, as Chairman of the Select Committee, would in a very real sense be investigating his own performance. Fortunately he was subject to some strong and effective pushing from two Select Committee members whose opposition to the CIA's clandestine interventions abroad was well known: Michael Harrington of Massachusetts and Ronald Dellums of California.

Even so, by June 1975 the committee had hardly turned a stone when the *New York Times* dropped a blockbuster on them. On June 5 the *Times* revealed that two years earlier Nedzi had been briefed by the new CIA Director, William Colby, on the results of a recent CIA "in-house" investigation of assassinations, illegal operations, and other abuses. Nedzi had taken no action and had not even informed the other members of his House Armed Services Intelligence Subcommittee. Harrington, Dellums and liberals on the Select Committee demanded Nedzi's resignation, which he gave, but which was refused by the full House in a vote on June 16. Thereafter Nedzi refused to function as Chairman of the Select Committee, and a move began to abolish it.

Complicating the impasse was Nedzi's refusal to make classified information available to Harrington from Nedzi's Armed Services Intelligence Subcommittee because Harrington had been partly responsible for the leaking in September 1974 of details of the CIA's subversion of the Allende government. Harrington's information had come from the subcommittee documents of Nedzi, who was determined not to give Harrington any more ammunition.

Finally, on July 17, the House abolished the Select Committee under Nedzi and established a new Select Committee under the chairmanship of Otis Pike. Both Nedzi and Harrington were left off the new committee which set about the investigation that eventually produced the Pike Report. In one of those apparent contradictions not uncommon in American politics, Pike, 54, son of a Republican Long Island banker and representative of a conservative Long Island district, a Democratic party member since he was 21 and foe of expensive Pentagon weapons projects, was responsible for some of the most important and enlightening revelations on CIA operations to date.

Part I of the Select Committee's report, published in the February 23 issue of the *Voice*, detailed the delays, obstructions and refusals by members of the executive, mainly Director Colby, Secretary Kissinger, and President Ford, to provide the documents needed by the committee for its investigation. The main administration tactic was to delay turning over

documents, in spite of the President's public assurances that he would cooperate in making available all material in the executive branch. This tactic eventually provoked a number of subpoenas by the Pike committee, some of which at length brought forth the documents. Yet the administration, knowing that the committee and a short lifetime and was working against an approaching deadline, stalled on issue after issue in order to conceal a maximum amount of material over the investigative period. Thus the committee, which wasted the February-July period in internal disputes, really only had about five months - from August to December 1975 - to do its investigation and get a report written and submitted to the House by its January 31, 1976 deadline.

Besides delay, the executive agencies also at times rendered important documents useless by excising significant content and even by flatly refusing to turn over documents requested by the committee. Finally, fierce battles were fought over the public release of information obtained by the committee: both over the specific information and the manner of release. Usually the reason given was some questionable allegation that revelation would endanger the "sources and methods" of the CIA or one of the other agencies. Yet another tactic was to prevent testimony by certain witnesses, as in the case of the State Department officer in charge of the Cyprus desk at the time of the coup against Makarios. This officer had written a dissenting report on the handling of intelligence in the State Department at the time of the Cyprus crisis, but he was prevented by Kissinger from testifying on what had happened and why he dissented. In another instance a witness who had revealed financial improprieties in FBI purchasing of wiretapping equipment was afterwards subjected to a six-hour "interview" by two FBI agents who convinced him to sign a statement recanting insignificant details of his testimony. The witness later repudiated that statement, claiming intimidation by the two FBI agents.

With all the administration's delays, refusals of documents, interference with testimony and deletions of content, there can be no doubt that President Ford, Secretary Kissinger and Director Colby, to name only the major administration figures, were determined to prevent the Pike Committee from making a thorough and effective investigation. In this respect the charge can validly be made that the administration tried a cover-up operation with the Pike Committee, and to a certain degree probably succeeded.

Yet, the content of Part II of the committee's report is most extraordinary and revealing. The major sections deal with costs, failures to anticipate important events, and an analysis of covert action operations between 1965 and 1975. We find that the total US intelligence budget exceeds \$10 billion. The Congress, however, which appropriates the money, has been told consistently that intelligence costs much less because intelligence activities have been placed in non-intelligence categories in the budget exercises. On analysis the foreign intelligence budget was found to total between three and four times more than Congress was told, while the domestic budget was more than five times the reported amount. The committee found accountability for secret funds lacking and the consequent spending abuses considerable. One CIA Station, for example, spent \$41,000 on whisky and other alcoholic beverages during 1971, after which the Station Chief was placed in charge of Agency operations in Angola.

Failure to anticipate major events in recent years reflects, in the Select Committee's view, serious shortcomings of the entire US intelligence apparatus. The Tet offensive of 1968, for example, wasn't foreseen, partly, at least, because of the American prejudiced, degraded view of the Vietcong. Because the technical monitoring system lost track of the Russian army in Poland during the first two weeks in August 1968, American intelligence failed to detect the first Warsaw

Pact invasion move against Czechoslovakia. President Johnson's first news of the invasion came from Soviet Ambassador Dobrynin in Washington. Similarly the Egyptian and Syrian attacks that launched the Yom Kippur war in 1973 caught the intelligence community by surprise, as did the coup in Portugal in April 1974, the Indian nuclear explosion in May 1974, and the coup against the makarios government in Cyprus in July 1974.

The Select Committee's review of CIA covert action operations is perhaps the most interesting section of the report. Unfortunately the committee's attention was limited to the covert action projects approved by the Forty Committee during the 1965-1975 period. As only the most sensitive and costly projects required approval by Forty Committee, composed of the Assistant to the President for National Security Affairs, the Deputy Secretary of Defense, the Undersecretary of State for Political Affairs, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, the Select Committee's investigation missed the vast majority of these kinds of operations which would have been approved internally in the CIA. Nevertheless the revelations on covert action in the report are quite significant.

We find, for example, that interference in the revered "free electoral processes" of other countries was the largest covert action category, comprising 32 per cent of the Forty Committee approvals. Twenty-nine per cent of approvals were for media and propaganda operations in which American government sponsorship was to be hidden. Twenty-three per cent of approvals were for paramilitary operations involving secret support to foreign armies and irregular military groups in the form of finance, training and weapons supplies. Still other CIA covert action operations involved CIA funding of a "plethora" of civic, religious, professional and trade union organizations.

In-depth analyses appear in the Select Committee's report of three major covert action projects, each of great interest. Intervention in Italian elections since 1948 cost the CIA \$75 million, including \$10 million spent in 1972 alone. Most of this money went to the Christian Democrats, although Ambassador Graham Martin obtained, over the CIA's objection, a donation of \$800,000 in 1972 for political forces of the Italian neo-fascist movement. The Ambassador insisted on the donation in order "to demonstrate solidarity for the long pull". Underlining the CIA's intervention in Italy was the revelation, in early 1976, from government sources other than the Select Committee, that President Ford had approved in December 1975 in the Italian electoral process during the months preceding the next Italian elections. (At the time of approval it was not known that elections would be held as soon as June 1976.)

Paramilitary support by the CIA to the Kurdish rebellion against the Iraqi government from 1972 to 1975, which cost some \$16 million, was initiated at the request of the Shah of Iran, then engaged in a border dispute with Iraq. Once the Iraqis agreed to a settlement favorable to Iran, the Shah had the support to the Kurds cut off. The rebellion collapsed, over 200,000 Kurds became refugees, and neither Iran nor the US set up adequate refugee assistance. As one high-ranking but unidentified witness told the Select Committee, "covert action should not be confused with missionary work".

The third major covert action operation examined by the Pike Committee was the CIA's intervention in Angola in support of the Holden Roberto and Jonas Savimbi forces. Here we find the conclusion that the massive Soviet and Cuban intervention was in large part a reaction to the CIA's prior intervention that threatened to upset the three-way stalemate existing before the CIA got going.

As a final observation on covert action operations, and one that is perhaps the most

important of all, the Pike Committee destroyed the doctrine of "plausible denial" whereby a President or Secretary of State could plead ignorance if operations went awry. In public testimony Secretary Kissinger admitted that every CIA operation of consequence was approved by the President, under the Ford as well as previous administrations. And in its report, the committee concludes, "All evidence in hand suggests that the CIA, far from being out of control, had been utterly responsive to the instructions of the President and the Assistant to the President for National Security Affairs."

For all the valuable information contained in the Pike Committee's report, one most important area of CIA operations was completely overlooked, possibly because the committee considered the matter too hot to handle. These are the relations between the CIA and foreign intelligence and security services -- commonly known in the Agency as liaison operations. Through these operations the CIA trains, finances and in varying degrees guides the foreign services into operations that will help the CIA. Over the years the CIA has played a major role in the growth and strengthening of many of the world's most dreaded and cruel security services: the South Korean CIA, the Indonesian KOPKAMTIB, the Thieu security services in South Vietnam, the SAVAK in Iran, the OBAN, CODI, DOPS and SNI in Brazil, the DINA in Chile and the Federal Police in Argentina. These services and others helped by the CIA happen to be the most notorious practitioners of institutionalized torture and murder in the "free" world today. They also happen to be the main sustaining force for the gross social and economic injustices prevailing in their countries.

Nowhere in the Pike Report can one find an indication that the Select Committee even considered the CIA's role in promoting and supporting such repressive security services. On the contrary, the committee laments the termination of the AID Public Safety programmes of assistance to foreign police services (a legitimate foreign aid programme") because of the CIA's involvement in it and bad publicity such as the film *State of Siege*. If the committee had wanted to get the truth, it could have discovered that the Public Safety programmes were an extension of operations already initiated by the CIA to establish better "internal security" in foreign countries - and that the CIA has continued police assistance work even though the public Safety programmes were abolished.

If the Select Committee had investigated the CIA's liaison operations, they would also have discovered that these operations, while considered within the CIA to be primarily counter-intelligence in nature, produce results quite similar to most covert action operations, i.e., they strengthen certain political forces and weaken others just as propaganda, labor and election operations do.

Only Congressman Ronald Dellums, in arguing for abolition of all covert action operations in the Recommendations section of the report, is willing to face the political issue:

"Where have covert operations taken us? Are the nations that we have been involved with free democratic societies where the masses of people have benefits of democracy, or are those nations for the most part, military dictators, right-wing juntas, or regimes with extraordinary wealth and power in the hands of a few elitists? If the latter holds, it totally contradicts stated principles of this country. If we have been involved in covert actions which generated democracy, freedom and justice around the world, maybe we might arrive at some different conclusion. But I don't think anyone can justify continued covert action on grounds that we foster and develop democracy around the world."

Part III of the Pike Report outlines the Select committee's 32 recommendations together with additional recommendations of individual committee members. This section was not meant to be kept secret and was not published by the *Village Voice* with Parts I and II. At its last session on February 10, the committee approved the recommendations which were then filed with the Clerk of the House for possible future action, and they were simultaneously released to the press. In fact there was little likelihood that the House would take early action on the proposals, partly because of the emerging US electoral campaigns, but mainly because of the general back lash against intelligence community "reformers" following the Welch death and the spate of leaked secrets - including Parts I and II of the Pike Report.

Most of the recommendations relate to increasing Congressional control over the intelligence community, especially the CIA, and to improving the quality of management and of the intelligence product. The report recommends a permanent House Intelligence Oversight Committee along with closer review of intelligence spending. While the committee would require that the CIA advise the House Intelligence Oversight Committee within 48 hours of the approval of any covert action operation, the main restriction recommended is to limit each operation to 12 months. Assassinations and paramilitary operations would be prohibited except in time of war, and the general approval mechanism for covert action operations would be institutionalized and upgraded. Finally, the Pike Committee recommended that the Director of Central Intelligence become a real manager of the whole intelligence community and that an Inspector General for the community be established to watch out for "abuses".

Many will conclude that the Pike Committee failed because its recommendations were so limited and in any case would serve to strengthen the CIA and the other agencies. To evaluate the committee's work one must examine it along with the other investigative bodies: the Senate investigating committee under Frank Church, and the Rockefeller Commission. Both of these groups, and President Ford as well, in his "reforms" of February 18, 1976, concentrated quite naturally on the same areas as the Pike Committee: increasing Congressional oversight, improving the quality of intelligence and the management of intelligence agencies and their budgets, and preventing future "abuses". To expect more, like that complete abolition of covert action operations or prohibiting CIA support to foreign services that torture and murder, was unrealistic. After all, the CIA and the other services exist to protect both the government of which the investigators are a part and the private interests protected by the government.

Yet, for all the limitations of the reform exercise, the work of the Pike Committee and the other bodies is an exceedingly positive chapter in American history. Who would have dreamed, two years ago, that such a great volume of information on secret American intervention in foreign countries would ever be made public? Who would have dreamed that the vast, illegal domestic operations of the CIA, FBI, and NSA would be revealed in great detail? Every bit of this information, together with the general methodology that emerges, can be used by people and organizations to protect themselves now and when the next wave of the same occurs. No doubt wide areas of CIA operations were omitted almost entirely, such as those in the trade union field, but no one can say the world's knowledge of secret intervention hasn't improved thanks to the investigations.

Of equal importance is the continuing strength of the best popular traditions in the United States that the investigations demonstrate: the free flow of information, resistance to government bureaucracy, resistance to government secrecy and coverups. Through the effective functioning of these traditions Americans have been able to learn how necessary corruption and

hypocrisy are to the way the current system operates. Abolition of covert action operations, which corrupt the country's expressed principles, cannot come until fundamental changes are made in other institutions. Meanwhile, the treasure of knowledge gained through the investigations must surely contribute to the understanding that government in a "liberal" society must of necessity function in favour of one class and to the detriment of another.

In July 1976 the chief investigator of the House Committee on Standards of Official Conduct, who had been trying since March to discover how the copies of Parts I and II of the Pike Report were leaked to Daniel Schorr, reported that nearly 50 copies of the report were in different executive and congressional offices when the leak occurred. None of the 207 government officials questioned, including Secretary Kissinger and the members of the Pike Committee, would admit to being the culprit. Thanks to one of them, at least, the Bertrand Russell Peace Foundation is able to present for the first time in book form Parts I, II, and III of the Pike Report, a document of truly historic significance not only for Americans but also for peoples the world over who have suffered from clandestine American intervention.

Cambridge, England
August, 1976

1. As reported in the international Herald Tribune, March 11, 1976.
2. *Ibid.*
3. *International Herald Tribune*, February 13, 1976.
4. *International Herald Tribune*, January 31 - February 1.
5. Daniel Schorr, letter to the *New York Times* dated February 16, 1976, published in the New York Times February 22, 1976.
6. *The CIA and the Cult of Intelligence*, by Victor Marchetti and John Marks, Jonathan Cape, London, 1974; Coronet Books, 1976.
7. *Inside the Company: CIA Diary*, Penguin Books, Harmondsworth, 1975.
8. *Los Angeles Times*, February 19, 1976.

A pattern was emerging.

Not all covert actions were generated by the CIA. In particular, paramilitary operations of the worst type seemed to come from outside the CIA. Some projects came from the President. Some projects came from his Assistant for National Security Affairs, and some had their beginning in the Department of State.⁶⁵

Forty Committee records were subpoenaed to see if the pattern was valid.⁶⁶ The subpoena was limited to the official document by which a covert action was approved. These records were often no more than one paragraph long.

What arrived in response to our subpoena showed nothing--because it was mostly deletions.

The deletions came in all shapes and forms. Typically, there would be one line left on a page, saying "A CIA project was telephonically approved," or "The Committee voted to approve a CIA paper entitled [title deleted]." Often, if there had been numerous items considered at a meeting, the deletions themselves had been cut and pasted together. For example, item eight

members of the Forty Committee.

"MR. FIELD. In other words, in the case of the Chilean operation, were you called to the Oval Office?

"MR. ELMS. I was in the Oval Office.

"MR. FIELD. You were called into the Oval Office and who was present?

"MR. HELMS. The Attorney General and Dr. Kissinger." Exec. Sess., Oct. 23, 1975.

⁶⁵ See, notes [], and accompanying text.

⁶⁶ "CHAIRMAN PIKE. The question then becomes--and Mr. Field stated this yesterday--are those operations which are generally within the CIA, and in the normal course of business, normally more responsible? Do they normally get our nation into less difficulties than those which somebody outside the intelligence operation department tells them to do?" Comm. Hearings, at [], Nov. 14, 1975.

"CHAIRMAN PIKE. Well, here we are seeking to look at the genesis of all oversight and the degree of control and the degree of responsibility by which these operations get launched.

"You and I, and Mr. Dellums, and Mr. Treen, as members of the Armed Services Committee, for years heard the magic word, "The Forty Committee." It has seemed to us as we get deeper and deeper into this that the Forty Committee really has not been all that prevalent in the decision-making process in the oversight process. The Forty Committee is always held forth as being that body which exercises judicial restraint, perhaps, in authorizing these various operations. It has seemed to me and I think most of the members of this committee that the activities of the Forty Committee have been relatively negligible in authorizing these operations.

"We are trying to get the information to see whether anybody ever really argues about these things, to see whether anybody votes no on these things, to see whether the Forty Committee is a reality or a rubber stamp." *Ibid.*, at [].

might follow item one, giving the impression that only two items had been considered that day.⁶⁷ Sometimes there would be only one word left on a page--"Chile"--nothing else, anywhere, but it was still classified top secret. The information, needless to say, was worthless.⁶⁸

Wholesale deletions were encountered in the Committee's investigation of domestic covert activities as well.

COINTELPRO, the FBI's program for disruption of the "New Left," like nearly all FBI actions, was extremely well documented. The Committee requested the appropriate documents in July.⁶⁹ What it received were summaries so heavily excised as to be unusable.

One memorandum, for example, referring only generically to the "New Left," contained the sub-heading, "Recommended Procedure," on one page, and "Results" on the next. The pages were otherwise blank. Another document with the same type generic reference, "Blank Extremist Organization," was likewise excised in its entirety.

The Committee protested. Negotiations followed.⁷⁰ Finally, in mid-October, an agreement was reached whereby less excised memos were made available to Committee staff, at FBI headquarters. The Committee persisted, selecting a representative number of memoranda to be delivered to its own offices. After some delay, they were delivered, still excised.

Requests for the documents pertaining to FBI national security wiretaps led to a similar experience. One set of documents was delivered, excised beyond use. Negotiations took place for almost a month. Finally, a second set of documents was provided, but, again, without identifying targets of electronic surveillance.

⁶⁷ "MR. FIELD. I think this is the best example of the kind of deletions. The items skip from Item 1 to Item 4. Items 2 and 3 are clearly cut and pasted out of the document. It then skips from 4 to 7. In other words, here is a document that could conceivably be two or three or four pages long. It gives you the feeling that you have gotten a reasonable amount of information, but in fact all somebody has done is snip out little sections and paste them together and compact them and make it look like it is a complete document." Comm Hearings, at [], Nov. 14, 1975.

⁶⁸ "MR. PIKE. I think that as any of us look at what they have given us, we will simply make a pretty easy judgment that what they have given us is so heavily censored and deleted as to be meaningless for our purposes." *Ibid.*, at [].

⁶⁹ It was part of a general request on July 22, 1975, for all documents previously provided the Senate Select Committee.

⁷⁰ The Senate, which received the same excised material, also objected, with more or less the same results. All of this happened before July 22, 1975. Much time could have been saved had that information been volunteered to the House.

to "abandon" this equipment.²²⁰ However, the Office of Communications, for example, contracted in 1965 with an electronics company to do research work. The contract required the purchase of a large piece of industrial equipment, as well as related testing equipment. CIA provided funds for the equipment as well as the research.²²¹ The testing equipment cost \$74,000 and the industrial equipment over \$243,000. At the termination of the contract in 1975, the testing equipment was sold to the contractor for \$18,500, the large piece of industrial was abandoned, in place.²²²

Calls to the manufacturer of this piece of machinery, as well as two "experts" in the field of this particular type of testing, revealed that the machinery which was abandoned, while perhaps "useless" to the Agency, was not a "worthless" piece of equipment which should have been "abandoned".²²³ According to documents provided to the Committee, CIA made no attempt to contact other government agencies, to see if the chamber could have used by another agency.

e. Colleges and Universities

In 1967, *Ramparts Magazine* disclosed CIA support to the National Students Association. As a result, President Johnson issued a flat prohibition against covert assistance to educational institution; but the Agency unilaterally reserved the right to, and does, depart from the Presidential order when it has the need to do so.²²⁴

²²⁰ Abandoned equipment is government furnish equipment which is left in place at the termination of a contract; and for which the contractor pays nothing. Interview with Carl Duckett, Deputy Director, Science and Technology, by S.A. Zeune and J. Mingee, Oct. 17, 1975, copy on file with Sel. Comm. on Intell.

²²¹ In this instance, CIA did not advance the funds to the contractor for the purchase of the test equipment or the industrial equipment. The cost of both was added to the contractors fee to the Agency. Interview with Office of Communications staff members, by S.A. Zeune and J. Mingee, Oct. 28, 1975, copy on file with Sel. Comm. on Intell.

²²² Interview with Office of Communications staff members, by S.A. Zeune and J. Mingee, Oct. 28, 1975, copy on file with Sel. Comm. on Intell.

²²³ Telephonic interview with President of the company which manufactured the industrial equipment, Dec. 8, 1975; telephonic interview with consultant on the particular area of testing involved, Dec. 8, 1975; telephonic interview with electronics consultant, Dec. 8, 1975, by S.A. Zeune, copies on file with Sel. Comm. on Intell.

²²⁴ "3. It is proposed that upon your approval:

- a. The attached guidelines be applied immediately to all future contractual arrangements with U.S. educational institutions.
- b. Contracts and grants now in existence be conformed to these guidelines as rapidly as feasible and wherever possible, no later than 30 December 67 for

There is no evidence that President authorized this departure from the Johnson directive.

As background, President Johnson had appointed a committee to investigate the matter and make policy recommendations.

Undersecretary of State, Nicholas deB. Katzenbach, and CIA Director, Richard H. Helms, served on the Committee. It recommended that "no federal agency shall provide any covert financial assistance or support, direct or indirect, to any of the nation's educational or private voluntary organizations."²²⁵

On March 29, 1967, President Johnson issued a statement accepting the recommendation and directing "all agencies of the government to implement it fully."²²⁶

The Agency then issued internal policy statements to implement the President's orders,²²⁷ stating that, whenever possible, the Agency's identity and sponsorship are to be made known.²²⁸ But the Agency was to clearly retain the option of entering into a covert contract with colleges and universities, after obtaining approval from the Deputy Director for Administration.²²⁹

Mr. Carl Duckett, Deputy Director for Science and Technology, testified before the Committee on Nov. 4, 1975, that the Agency still has on-going contracts with "a small number of

relationships that will extend beyond that date...The thrust of the review of existing contracts and the placement of future contracts will be that our contractor relationships with academic institutions will be strongly on the premise that CIA will be identified as the contractor...Any special contract arrangement will be considered only when there is extremely strong justification warranting a variance from the principles of CIA identification as the contractor. It is felt that the Agency must retain some flexibility for contracting arrangements with academic institutions and this can be carefully monitored and accomplished within the policies and principles expressed in the Katzenbach report..." Memorandum for Director of Central Intelligence, June 21, 1967.

²²⁵ Report to the President, []

²²⁶ Statement by the President (Lyndon B. Johnson), March 29, 1967: "I accept this committee's proposed statement of policy and am directing all agencies of the government to implement it fully."

²²⁷ *Ibid.*

²²⁸ *Ibid.*

²²⁹ *Ibid.*

universities".²³⁰ Mr. Duckett also revealed that some of the contracts involved "classified work"²³¹, and some are covert.

f. U.S. Recording

On October 9, 1975, the Committee held hearings on electronic surveillance in the United States. One of the witnesses, Mr. Martin Kaiser, was a manufacturer of electronic surveillance and counter-measure equipment. In the course of his testimony, he revealed that all sales of his equipment were routed - pursuant to FBI instructions - through a cut-out or middle-man, U.S. Recording Company, of Washington, D.C.²³²

The equipment was neither modified nor serviced by U.S. Recording.²³³ Kaiser

²³⁰ Comm. Hearings, at [], Nov. 4, 1975.

²³¹ *Ibid.*

²³² "I began my relationship with the FBI around 1967 or 1968. All my correspondence was sent directly to the FBI. However, I think it was on only one occasion that the Bureau ever contacted me personally. All other addresses were made personally or verbally. Once they began purchasing equipment I was directed not to send this equipment to the FBI, but rather sell it to a company known as United States Recording, a private company operation on South Capitol Street in Washington, D.C. I informed the Bureau, as if they needed that piece of information, the Federal law would not allow me to sell equipment to anyone except bona fide governmental agencies. The FBI agents assured me my actions were proper and subsequently supplied a stamp to United States Recording which purported to certify on the purchase orders that the transaction was in accordance with Federal law." Comm. Hearings, at []. Oct. 9, 1975.

²³³ "MR. OLIPHANT. Do you know of any servicing of Martin Kaiser's work that was done by U.S. Recording?

"MR. HARWARD. Servicing?

"MR. OLIPHANT. Yes, repair, servicing, fixing it.

"MR. VERMEIRE. Subsequent to the purchase.

"MR. HARWARD. No.

"MR. OLIPHANT. Do you know of any times subsequent to the purchase that equipment was tested and refined by U.S. Recordings?

"MR. HARWARD. Specifically of Martin Kaiser's equipment, it was purchased through U.S. Recording as a way of that type of equipment. At least that was in a category that we would ask to be purchased confidentially and I don't know of any case where U.S. Recordings performed any repair work." Interview with Mr. William Harward, J.B.F. Oliphant and R. Vermeire, Nov. 11, 1975, copy on file with Sel. Comm. on Intell.

ambitious invasion on August 14, resulting in the capture of fully one-third of the island.

In terms of both its immediate³⁷⁰ and long-range consequences, the sum total of U.S. intelligence failure during the Cyprus crisis may have been the most damaging intelligence performance in recent years.

7. Domestic internal security and countercounterintelligence

The Intelligence Division of the FBI is divided into two sections: Internal Security and Counter-intelligence. The Internal Security Division investigates domestic subversive or extremist groups with the goal of ascertaining whether individuals are violating federal laws, or may violate them in the future.

These investigations are costly, in monetary terms and in terms of personal privacy. Are they effectively and dispassionately controlled, in keeping with criminal priorities? Are they efficiently terminated when clearly unproductive? 34 years of investigating the Socialist Workers Party and over five years spying on the Institute for Policy Studies provide some examples of disturbing answers.

a. Institute for Policy Studies

The FBI Manual of Instructions allows preliminary investigations to be opened on groups espousing extremist philosophies. If these investigations do not demonstrate reasonable likelihood of uncovering criminal violations, the Manual states that they should be terminated within 90 days.³⁷¹

³⁷⁰ Some days later, Rodger Davies, the U.S. Ambassador to Cyprus, was fatally wounded during an anti-American demonstration at the Embassy in Nicosia. Contemporary accounts concluded that Davies was simply struck by a stray bullet. Information made available to the Committee suggests that Davies may have been the victim of an assassin.

Ambassador Tasca disclosed to staff a report that EOKA-B had decided to kill either Davies or himself. U.S. intelligence officers have asserted not only that Davies may have been intentionally shot, but also that the identities of the individuals firing at the Embassy are also known. The intelligence sources have alleged that the individuals may be officials of the Nicosia police. Despite repeated private U.S. protests, the Cypriot government is said to have declined to remove these individuals from their jobs. Interview with Henry J. Tasca, by J. Boos, Sept. 26-27, 1975, copy on file with Sel. Comm. on Intell. Interview with CIA officials by G. Rushford and F. Kirschstein, Oct. 22, 1975, copy on file with Sel. Comm. on Intell.

³⁷¹ Inherent presidential national security power is invoked from time to time, as when the FBI participated in the so-called "Kissinger 17" wiretaps. "We do ... cite statutes as a predication for *any* investigation in our internal security field." Interview with W. Raymond, Wannal, Asst. Director, FBI Intelligence Division by J. Atkisson, J.B.F. Oliphant, R. Vermeire, Nov. 5, 1975, copy on file with Sel. Comm. on Intell. (emphasis added).

The four statutes cited are 18 USC § 2383, proscribing actual participation in rebellion or

In 1968, the FBI saw sufficient connection between the Institute for Policy Studies (IPS) and the Students for a Democratic Society (SDS) to open a preliminary investigation of IPS.³⁷²

The investigation was not terminated after an initial 90-day period, even though it had turned up no evidence that IPS members or their associates were violating federal laws. Six months later, at the end of a vigorous nine-month investigation of IPS, the Washington field office reported the results as "negative."

The IPS investigation was destined to continue for five more years.

The investigation had been based on an SDS connection. During the investigation, however, FBI had received information from a source advising "that, in general, the IPS is not well thought of by the hard-core SDS leaders because members of the IPS are not activists, "except for one IPS leader considered sympathetic with SDS objectives."³⁷³ The FBI was not discouraged by the loss of its investigative base, and went ahead reporting unrelated matters. One report, for example, described IPS as "a non-profit,, non-taxable institute which studies programs to present policies."³⁷⁴ The same report noted the fact that "IPS educational curriculum centers on topics

insurrection; 18 USC § 2384 outlawing seditious conspiracy; 18 USC § 2385 on advocating the forceful overthrow of the government; and 18 USC § 241, the Civil Rights Act of 1968 prescribing criminal sanctions for conspiring to deny civil rights. FBI Manual of Instructions, Section 87 "Investigations of Subversive Organizations and Individuals"; Section 122, "Extremist Matters and Civil Unrest."

"Information received or developed indicating a group is engaging in activities, which, if uninterrupted, could lead to a violation of that statute, that is the basis for investigating that group." Interview with W. Raymond Wannall. Thus, the real basis is a potential violation in the future, hence "anticipatory" intelligence gathering.

³⁷² The connection was seen in the fact that one member of IPS had contacted one member of SDS. FBI Memorandum, Nov. 28, 1975, Appendix II.

There was some confusion about the initial reason for the investigation at the Committee's hearing on the subject, Nov. 18, 1975. In response to the Committee's request for "any and all" documents concerning IPS, the Bureau supplied a file commencing in Nov. [], 1968, based on the possible SDS connection, was the earliest document in the IPS file. Inexplicably, it had not been submitted to the Committee. Comm. hearings, at 1082, Nov. 18, 1975; FBI Memorandum, Nov. 28, 1975, Appendix II. Later, the Bureau speculated that the IPS investigation might provide leads on SDS fugitives, and accordingly, the investigation continued.

³⁷³ "Sources," in Bureau parlance, may include confidential informants, documents, public records, agent interviews, even newspaper stories -- i.e., anything or anybody with information on the subject.

The one IPS leader is the same individual who had contacted SDS. FBI Washington Field Office memorandum to Headquarters, Mar. 14, 1969.

³⁷⁴ FBI Washington Field Office memorandum to Headquarters, Mar. 19, 1969. For the Institute's characterization of itself, see statement of Marcus G. Raskin, Comm. Hearings, at 1060, Nov. 18, 1975.

which are critical of the present U.S. system....³⁷⁵

In January 1971, the Bureau continued reporting non-criminal matters, such as the fact that the Institute "though small...exerts considerable influence through contacts with educators, Congress and labor."³⁷⁶ It is important to remember that the whole probe began with an investigation of alleged contacts between an IPS staffer and an SDS leader. The FBI had effectively reversed the traditional concept of "guilt by association." Instead of a suspect group tainting an individual, the individual had tainted the group.³⁷⁷

An October 1971 Bureau report said of the Institute:

The popular impression of IPS as the 'think tank' of radical United States politics is justified. It has taken and continues to take a major role in the anti-war movement and calls for disarmament. While IPS people see themselves as leaders of radical thought, they would appear to be leaders without a popular constituency.³⁷⁸

The same report concentrated on IPS suspicions of FBI surveillance. It stated that, "they suspect that they are being watched from the building across the street and from adjacent buildings." The same report went on to say that two members of the Institute had been "observed by a representative of the FBI...walking slowly around the block of IPS, sometimes several times, conversing with each other...they appear to be conversing in low tones and in guarded manner."³⁷⁹

In August 1972, an alert Bureau agent collected some IPS garbage.³⁸⁰

³⁷⁵ *Ibid.*

³⁷⁶ Washington Field Office memorandum to Headquarters, Jan. 26, 1971.

³⁷⁷ One group may taint another group. The FBI initiated investigation of the Vietnam Veterans Against the War because the VVAW had the misfortune of being mentioned favorably by the Communist Party.

On September 10, 1967, the CPUSA publication, 'The Worker,' announced that the organization VVAW had been formed in June 1967, as a non-membership organization made up of Vietnam veterans who were opposed to the war. This communist publication provided the purpose of VVAW as opposition to the 'unjustified' war in Vietnam. It announced that VVAW had joined 'the dissent of millions of Americans against the war.' FBI memorandum re: justification for investigation of VVAW from 1967 to the present, Nov. 28, 1975, copy on file with Sel., Comm. on Intell.

³⁷⁸ FBI Washington Field Office Report to Headquarters, Oct. 7, 1971.

³⁷⁹ *Ibid.*

³⁸⁰ "Institute for Policy Studies (IPS) is DASH, RA. On August two three last, [a Special Agent] observed a private trash truck picking up trash from IPS. The truck proceeded to a burning dump, where the trash was abandoned. [The Special Agent] obtained the IPS trash, and information obtained from this source is being assigned symbol number, [deleted]." NITEL Cable to Acting Director, FBI from SAC, WFO, Aug. 8, 1972.

The trash revealed no evidence of criminal conduct. However, eight used typewriter ribbons were found. Even though there were no signs of crimes, and despite the fact that IPS itself was not suspected of crimes, FBI devoted time and money to the expensive process of reconstructing the documents that had been typed by the ribbon.³⁸¹

Part of the yield was intimate sexual gossip.³⁸²

FBI officials told Committee staff, under oath, that personal information, such as sexual activities is discarded if it does not bear on a crime. That was not true. Information from the trash retrieval, including the sexual gossip, was incorporated into a number of reports. In each report, the information was attributed to a "source who has supplied reliable information in the past."³⁸³

In 1973, the Washington Field Office reported that "the organization [IPS] is fragmented into a wide variety of studies and interests, the vast majority of which appear to be within legal limits."³⁸⁴ In May, 1974, the Washington Field Office concluded that a "paucity of information exists that would support the likelihood of IPS or its leaders to be functioning in violation of federal law."³⁸⁵ Only then, after five years and no evidence of law-breaking, did the investigation become inactive.³⁸⁶ Socialist Workers Party

The second example involved the Socialist Workers Party (SWP). The SWP adopted a Declaration of Principles and a Constitution at their founding convention in January 1938. The

³⁸¹ FBI Laboratory Report to SAC, Washington Field Office, Oct. 12, 1972.

³⁸² FBI Washington Field Office Report, Oct. 19, 1972.

The Manual of Instructions states that "[Reports] should not include information regarding the subject's social or personal affairs or other background data not relevant to subject's subversive activities or affiliations." MOI, Section 87, p. 13.

³⁸³ FBI Washington Field Office Report, Oct. 19, 1972 and other related FBI memoranda.

³⁸⁴ FBI Washington Field Office Memorandum to Headquarters, Mar. 14, 1973.

³⁸⁵ FBI Memorandum, May 31, 1974.

³⁸⁶ "Mr. ATKISSON. ...what, if any, information has the Bureau uncovered about IPS, which prompted further investigation of the IPS over a five-year period--I am not asking for type of information; what information?"

"Mr. SHACKELFORD. I think the answer as far as IPS goes back to those persons who control IPS and run it, and we looked very close at the activity of those particular individuals and then looked at IPS as a product of theirs."

"Mr. ATKISSON. You looked at them for about five years. Did you find anything?"

"Mr. SHACKELFORD. That is exactly right."

"Mr. ATKISSON. Did you find anything during those five years?"

"Mr. SHACKELFORD. Not for which they could be prosecuted."

Interview with Bureau representatives W. Raymond Wannall, Asst. Director, Intelligence Division; R.L. Shackelford, Section Chief; and David Ryan, Special Agent, by J.B.F. Oliphant, R. Vermeire, J. Atkisson, and E. Miller, Nov. 5, 1975, copy on file with Sel. Comm. on Intell.

Declaration of Principles was replete with revolutionary rhetoric of the Marxist Left. The fledgling Socialist Workers Party also swore allegiance to the world-wide organization of Trotsky -- the Fourth International.³⁸⁷

Nevertheless, the SWP dissolved their allegiance with the Fourth International and retracted this Declaration of Principles on December 21, 1940, in order to comply with the Voorhis Act.³⁸⁸ The FBI maintained that this disassociation with the Fourth International was merely cosmetic. However, the FBI has been unable to prove any illegal relationship between the SWP and the Fourth International.

FBI's failure to uncover illegal activity by this political party is not from lack of effort. SWP has been subjected to 34 years of intensive investigation.³⁸⁹

On November 5, 1975, FBI officials testified that the Fourth International itself was a body made up of Marxist elements around the world and enjoyed no structural power base in the Soviet Union. Significantly, these officials demonstrated no detailed knowledge about the Fourth International.³⁹⁰ FBI officials did not mention the fact that the Socialist Workers are a legitimate American political party, that even runs a candidate for President. Equally as important, the FBI has found no evidence to support a federal prosecution of an SWP member, with the exception of several Smith Act violations in 1941. Since that time, not only have there been no further prosecutions against the SWP for any Federal offense³⁹¹, but the portions of the Smith Act under which these earlier convictions had been obtained have been declared unconstitutional.³⁹²

The investigation, which FBI officials tacitly admit has been conducted partially under the

³⁸⁷ Declaration of Principles and Constitution of the Socialist Workers Party. Published by the Socialist Workers Party, 116 University Place, New York, New York.

³⁸⁸ Socialist Workers Party, et al. vs. Attorney General of the United States of America, et al. affidavit by Barry Sheppard, signed Dec. 12, 1974.

Comm. Hearings, Nov. 18, 1975, Statement of Peter Camejo, Presidential candidate of the Socialist Workers Party, at []; Voorhis Act, 18. U.S.C. § 2386.

³⁸⁹ Staff interview of W. Raymond Wannall, et al., by J.B.F. Oliphant, R. Vermeire, J. Atkisson and E. Miller on Nov. 5, 1975, at 58, 59, 67, copy on files with 'Sel. Comm. on Intell.

³⁹⁰ *Ibid.*, at 63-67.

³⁹¹ Comm. Hearings, Nov. 18, 1975, at [].

"Chairman PIKE. So, since 1941 there have been no indictments or prosecutions of members of this party; is that correct?"

"Mr. ADAMS. To my knowledge."

³⁹² See: *Scales v. U.S.*, 367 U.S. 203; *Noto v. U.S.*, 290; *Yates v. U.S.*, 354 U.S. 298; *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

aegis of an unprosecutable statute³⁹³, has revealed that the SWP is a highly law-abiding group.³⁹⁴ The SWP has even avoided illegal and potentially violent confrontations with the authorities during any sort of civil protests. Nevertheless, this had no impact on 34 years of unproductive spying.

According to the Presidential candidate of the SWP, Peter Camejo, party members are even forbidden by the SWP to smoke marijuana.³⁹⁵ The Bureau, apparently formulated a philosophy, in this case, to justify their investigation.³⁹⁶

Considerable resources have been allocated, to compound the error of a continuing unproductive investigation and to back-stop the preconceptions of FBI personnel.

For example, FBI Internal Security investigators committed a massive manpower allocation

³⁹³ Staff interview with Raymond Wannall, et al., Nov. 5, 1975 at 70. "Mr. Ryan: The Supreme Court has rendered the Smith Act ineffective for prosecutable purposes. It remains a statute.", Nov. 5, 1975.

³⁹⁴ See note 391.

³⁹⁵ Staff interview of Peter Camejo by J.B.F. Oliphant and R. Vermeire, Nov. 16, 1975, copy on file with Sel. Comm. on Intell.

³⁹⁶ "Oliphant: When exactly does an executive decision get made; let's cut this off; let's cut off the resource allocation on following this guy around?"

"Ryan: I think you have simplified the investigation of the Socialist Workers Party. There is a foreign involvement with the Socialist Workers Party investigation. There is in the past some evidence of terrorism within the group, supporting advocacy of terrorism. I think you cannot take something and say as simple as why are we investigating the Socialist Party?"

"Oliphant: I am not talking about investigating it as a monolith, Mr. Ryan. I am talking about the investigation of individuals within it, individuals where there had been no allegation they had been involved in any terrorist activities, no allegations of them in touch with any sort of foreign power.

"Ryan: I think you are wrong, on all counts. The basic philosophy of the Trotskyite movement -- of which the Socialist Workers Party is the leading movement -- is that only a violent revolution can destroy capitalism. They also believe all political groups other than their own are counter-revolutionary and must be destroyed.

"The Socialist Workers Party maintains affiliation with the Fourth International. There are elements of that which is based, I believe, now in Brussels, which support terrorist activities, particularly in Argentina and other foreign countries.

"We in the Bureau are much concerned these elements which are within the Socialist Workers Party within the United States may reach a point of influence where they could present a direct threat." Interview with Wannall, Shackelford, and Ryan, by J.B.F. Oliphant, R. Vermeire, and J. Atkisson, Nov. 5, 1975, copy on file with Sel. Comm. on Intell.

of interviewing landlords, employers, fellow employees, and family relations of SWP members.³⁹⁷ The FBI also maintained intensive surveillance of most, if not all, of the SWP's 2500 members.³⁹⁸

Americans are often concerned about privacy invasions of domestic security investigations. One-fifth of all investigations initiated by the FBI during the last dealt with security matters.³⁹⁹ The important issue is whether citizens receive a valuable product in the form of anticipatory intelligence which would serve as a deterrent to, and a prevention of, crime. While it is impossible to accurately gauge the deterrent effect of FBI efforts, it is obvious that the FBI failed to anticipate groups dedicated to the overthrow of the existing government and fully committed to violence.⁴⁰⁰

The FBI has likewise had a dismal record in the prompt apprehension of fugitives from the New Left underground.⁴⁰¹ Domestic intelligence appears to be suffering from a misallocation of resources and effort.

³⁹⁷ The staff has been given access to thousands of pages of FBI investigative files regarding the SWP and the FBI has admitted on many occasions that it has investigated the SWP since the 1930's.

³⁹⁸ Comm. Hearings, Nov. 18, 1975, at []. The staff has been provided over 200 incidents of alleged FBI intrusions of SWP members since 1971 by the Political Rights Defense Fund. The FBI has admitted that the SWP was a target for COINTELPRO action.

³⁹⁹ Statement of Elmer B. Staats, Comptroller General of the United States before the Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary on Domestic Intelligence Operations of the FBI, at 11. Appendix III to my statement presents detailed information regarding how the FBI's Domestic Intelligence Division fits in to the FBI's efforts and the extent of which FBI resources have been applied to such efforts.

"The Intelligence Division is one of 13 operating FBI divisions and is divided into two branches-- Counterintelligence and Internal Security. The Internal Security Branch coordinates all investigation of subversive and extremist matters relating to the internal security of the United States and does research for the entire division.

"Overall, during fiscal years 1965 through 1975, security investigations averaged about 19 percent of all investigative matters initiated by the FBI. A further breakdown of the above-mentioned figure is classified because it includes counterespionage as well as internal security matters. However, an analysis of percentage increases and decreases in internal security investigative matters shows generally that the effort increased in the late sixties and early seventies, but in the last year dropped to a level near that of 1965."

⁴⁰⁰ The S.L.A. is a example. The FBI provided staff attorneys with a detailed after-the-fact history of the SLA. However, the FBI was apparently unable to anticipate the formation of the group or thwart its initial criminal activities. FBI briefing on Intelligence by Wannall, et al., attended by J.B.F. Oliphant and R. Vermeire.

⁴⁰¹ Mark Rudd, Abbie Hoffman, et al.

interests of the host. Nonetheless, the committee believes that detailing as presently practiced reflects an unwise policy.

At best, intelligence personnel such as clerical help are diverted from CIA duties thus frustrating the budget allocating intent of Congress. A far worse specter is that of CIA officers assigned to such posts as the National Security Council where they are susceptible, despite all good intentions, to substantial conflicts of interest on the most sensitive issues. The latter problem is compounded by the fact that the detailee's background often is unknown to NSC colleagues who are also charged with CIA-related responsibilities.⁵⁰⁹

The Committee discovered detailees, whose Agency ties were closely held secrets, making recommendations on CIA covert action proposals to unwitting senior NSC officials. Such individuals also help conduct the NSC's evaluation of the intelligence product, and in that capacity regularly compare CIA's performance with that of rival agencies.

These individuals have impressed staff as highly motivated professionals, acutely aware of the problems resulting from divided loyalties. Their integrity is not at issue. But neither the White House nor the CIA is well served by an unnecessary policy which invites cynicism and compromises the quality of Executive Branch oversight of the intelligence community.

e. CIA Relationships with U.S. and Foreign Police

In creating the CIA, Congress clearly intended to deny it any domestic police functions. Their fear that a super-secret, bureaucratically powerful spy agency might evolve into a domestic secret police, has not been realized, despite shortcomings in control and oversight.

Evidence in Committee files, however, indicates that during the late 1960's and early 1970's, CIA allowed itself to become involved in domestic police activity. In addition, the Agency undertook other police assistance activities which jeopardized the integrity of an otherwise legitimate and useful U.S. foreign aid program.

Association and Collaboration with U.S. Police

Notwithstanding its charter's⁵¹⁰ clear prohibition against internal security functions, CIA has maintained relationships--many entirely appropriate--with various Federal, state, and local law enforcement agencies. Questionable activities prior to the Holtzman Amendment to the Omnibus Crime Control and Safe Streets Acts of 1968, included the training by CIA of domestic police and

⁵⁰⁹See previous note on a key staffer at the NSC who made recommendations on policy options. He therefore, was called upon to make these recommendations on CIA policies to people who did not know of his current CIA affiliation.

⁵¹⁰ 50 U.S.C. 403 (f) (1970) in relevant part forbids the CIA from exercising "police, law enforcement powers, or internal security functions. . ."

loans of Agency equipment for domestic use.⁵¹¹ In return, local police departments cooperated with CIA on matters of concern to the Agency's Office of Security. Both activities appear to have been improper. The first violated the charter's ban on domestic police functions, and the latter tended to circumvent jurisdiction of the FBI and the Department of Justice.

Of these activities, CIA's role as a source of ordinary as well as exotic equipment is perhaps the most troubling and publicized. The Agency has loaned such traditional gear as body protectors, billy clubs, mace, and similar civil disturbance paraphernalia.⁵¹² Most of the equipment was provided during the height of the anti-Vietnam War movement and may have been used by local police during the May 1971 demonstrations in Washington.

More exotic loans consisted of decoders, clandestine transmitters, analyzers, and other wiretapping devices.⁵¹³

A staff examination of these practices reveals that CIA officials usually provided equipment on a no-questions-asked basis, did not require the production of court orders for eavesdropping gear, and exercised virtually no control over the loaned items.⁵¹⁴

The record suggests that on one occasion, CIA-loaned equipment was used in an illegal wiretap. In June, 1971, Mr. Kenyon F. Ballew was severely wounded during a raid on his apartment by agents of the Division of Alcohol, Tobacco and Firearms, supported by police from Montgomery and Prince Georges Counties in Maryland.

The raid was conducted pursuant to a Federal search warrant for possession of suspected firearms and hand grenades. Plainclothes agents and police officers broke down the door to the apartment when Mr. Ballew failed to answer their knock. Mr. Ballew, a gun collector, picked up a pistol, was shot, and is now permanently disabled. He is partially paralyzed, walks only with the aid of a brace and cane, speaks with difficulty, and still has the police bullet lodged in his brain.

Mr. Ballew was never prosecuted for any gun control violations. The case received a large amount of publicity and was the subject of a number of investigations of alleged police misconduct. Mr. Ballew brought suit pursuant to the Federal Torts Claims Act and received an adverse judgment from the courts in February, 1975.⁵¹⁵

A CIA Office of Security employee assigned to liaison with the Montgomery County Police Department told staff that, in a conversation with a police inspector on the Ballew case, the possible

⁵¹¹ Interview with an officer of the Security Support Division, CIA Office of Security, by S. Hecht, Oct. 28, 1975, copy on file with Sel. Comm. on Intell. See, also, 42 U.S.C. 3756 (1973).

⁵¹² Interview with Howard J. Osborn, former Director, CIA Office of Security, by S. Hecht, Dec. 11, 1975, copy on file with Sel. Comm. on Intell.

⁵¹³ Attachments to memoranda a) to the Director of Security, from the Deputy Director of Security, Feb. 15, 1974, and b) to the Inspector General, from Charles W. Kane, CIA Director of Security, Apr. 22, 1974.

⁵¹⁴ See, note

⁵¹⁵ *Ballew v. United States*, 389 F. Supp. 47 (D-Maryland 1975).

use of CIA-loaned bugging equipment was revealed.⁵¹⁶ He was advised that police intercepted a telephone conversation in which plans were outlined to "kill a cop." However, neither the affidavit in support of the search warrant, the subsequent investigations, nor the transcript of the civil suit reflected the existence of any wiretap. Mr. Ballew's case is now on appeal, and if there had been an illegal wiretap, he may be entitled to a new trial. While the Department of Justice's CIA Task Force has been made aware of this possible wiretap for months, it has apparently refused, both to act upon it,⁵¹⁷ and to notify the attorneys in the case.

CIA Involvement with Foreign Police

From the early 1950's until late 1973, CIA operated a proprietary, International Police Services (IPS) in the Washington D.C. area. It had the dual purpose of improving allies' internal security, and evaluating foreign cadets for pro-U.S. orientation, which might later enable CIA to recruit them as intelligence assets.⁵¹⁸

In the early 1960's the Agency for International Development's Office of Public Safety (AID-OPS) became actively involved in foreign police training. OPS' 14 week course was augmented by an additional four weeks of training at IPS, pursuant to a contractual arrangement with AID. Students were not made aware that they were being trained at a CIA facility, and only a handful of AID officials, including the Director of OPS, knew of IPS's CIA status.⁵¹⁹

Instructors were asked to record names of students who demonstrated a pro-American attitude.⁵²⁰ It does not appear, however, that the CIA attempted to recruit students while in the United States, although CIA documents indicate that with the cooperation of OPS, lists of OPS and

⁵¹⁶ Interview with CIA Office of Security employee assigned to liaison with the Montgomery County Police Department, by S. Hecht, Dec. 10, 1975, copy on file with Sel. Comm. on Intell. See also, Memorandum to the Director of Central Intelligence from William V. Broe, CIA Inspector General, June 6, 1973, "Alleged CIA Involvement in the Ballou [sic] Case," CIA "Family Jewels," at 634-5 (May 20, 1973).

⁵¹⁷ The Agency's position in this case is that the Agency was not involved beyond the loan of audio equipment, which may have been used against Mr. Ballew. See, letter to the Staff Director of the Sel. comm. on Intell., Nov. 17, 1975, re: Office of Security's relationship with domestic police departments.

⁵¹⁸ Memorandum to the CIA Deputy Director of Operations, from James Angleton, Chief, Counter Intelligence Staff, Apr. 25, 1973, "Counter Intelligence Staff, Police Group Activities," CIA "Family Jewels" at 595-9 (May 20, 1973). See also, Interview with an officer of the CIA Special Operations Group, by S. Hecht, Oct. 30, 1975, copy on file with Sel. Comm. on Intell.

⁵¹⁹ Interview with Byron Engle, former Director, AID office of Public Safety, By S. Hecht, Nov. 1, 1975, copy on file with Sel. comm. on Intell.

⁵²⁰ Interview with a former IPS instructor, who also is an ex-FBI agent, by S. Hecht, Nov. 12, 1975, copy on file with Sel. Comm. on Intell.

IPS students were made available, along with biographical information, to CIA components for operational use.⁵²¹

As many as 5,000 foreign police officers from over 100 countries, many of whom have become high officials, unwittingly received training from the CIA.⁵²² The positions of these foreign police officers may have been damaged when, in 1973, IPS was revealed as a CIA front.

In addition to damaging the credibility of these foreign policy officers, CIA's apparently unnecessary involvement with a legitimate foreign aid program could have seriously undermined that program from a propaganda standpoint.⁵²³ Despite these realities, AID-OPS continued its relationship with IPS until late 1973. Department of State and AID officials should review these practices and develop alternative methods of administering foreign aid programs without CIA involvement and support.

3. Domestic intelligence investigations

Domestic intelligence⁵²⁴ carries with it two distinct types of risks. There are programs that

⁵²¹ See, note

⁵²² According to maximum estimates, IPS trained approximately forty percent of OPS-IPA students. The Director of AID-OPS stated that the figure was not that high but could not give an estimate. Over 7,000 foreign police officers from 75 countries received OPS-IPA training. Lefever, U.S. Public Safety Assistance: "An Assessment," The Brookings Institution, p. 2 (Dec. 1973). See also, note

⁵²³ For example, the AID-OPS program was damaged considerably by allegations linking foreign police training to the CIA. In 1970, Dan Mitrione, a law enforcement officer of impeccable credentials and reputation, employed by AID as a Public Safety Advisor in Uruguay, was kidnapped and murdered by Tupamaro guerrillas. The Tupamaros alleged that Mitrione was a CIA "agent" and that Public Safety Advisors including Mitrione taught torture tactics to police. CIA documents indicate that although Mitrione may have had some contact with CIA officers stationed in Uruguay, he was not a CIA employee or informant. See, note. Allegations of AID-OPS sponsored torture training, depicted in various press reports and the film "State of Siege," appear factually insupportable. However, this type of allegation had a tremendous propaganda impact which contributed substantially to the termination of AID-OPS in 1975.

⁵²⁴ Although the FBI, the Drug Enforcement Administration (DEA), the IRS, and the Secret Service have domestic intelligence capabilities, domestic intelligence as used here refers to FBI operations.

The various kinds of intelligence can be defined as follows:

1. *Operational Intelligence*: Intelligence developed pursuant to an actual ongoing criminal investigation.
2. *Strategic Long-Range Intelligence*: Intelligence developed with a specific goal of

by their very nature and methods offend individual liberties and statutory rights. Then there are legitimate intelligence methods that are improperly applied, turning the law-enforcers into law-breakers.

a. Programs as Abuses

COINTELPRO was a series of covert counterintelligence programs aimed at identifying, penetrating, and neutralizing subversive elements in the United States. The program itself consisted of myriad clandestine dirty tricks carried out by FBI agents against persons and organizations considered subversive by the FBI.⁵²⁵ Careers were ruined, friendships severed, reputations sullied, businesses bankrupted and, in some cases, lives endangered.⁵²⁶

profiles on the membership, inter-relationships, mores, and trends of the criminal community.

3. *Counterintelligence*: Intelligence aimed at meeting capabilities of foreign-directed intelligence operations within the United States.

4. *Internal Security or Domestic Intelligence*: The operations, trends, mores and inter-relationships of groups of extremists and radicals who, in the opinion of the FBI pose a threat to the internal security of the United States.

5. *Automated Intelligence*: Operational intelligence developed from criminal investigations and the strategic long-range intelligence, combined with statistical facts (arrest records, drivers license information, etc.) compiled on target individuals and computerized.

⁵²⁵ The primary programs were the Communist Party, U.S.A. program (commenced 1956), the Socialist Workers Party program (commenced in 1961), the White Extremist program (commenced in 1964), the Black Extremist program (commenced in 1967), and the new Left Domestic program (commenced in 1968). Lesser programs were the Puerto Rican bomber program (1966), Operation Hoodwink (1966) (a program pitting the Mafia against the communist Party), Operation Border Coverage (1961), the Cuban program (1961) and the Yugoslav program (1969). ALL COINTELPRO programs terminated after their existence was discovered following the burglary of the FBI office in Media, Pa. on April 27, 1971. Staff COINTELPRO briefing between W. Raymond Wannall, Assistant Director of the FBI in charge of the Intelligence Division and J.B.F. Oliphant and R. Vermeire, at FBI headquarters, Aug. 22, 1975, copy on file with Sel. Comm. on Intell.

⁵²⁶ The following are but a few examples of specific COINTELPRO programs, of which there were a total of 3,247 proposed and 2,370 carried out:

In 1969, the FBI authorized an agent to send anonymous letters to the superior of Father Augustus Taylor, Jr., a Catholic priest, complaining of Father Taylor's speaking out on his television show against the war in Vietnam and of his public support of certain black organizations. Father Taylor's television show was subsequently canceled and he was transferred. FBI COINTELPRO memoranda 100-448006-785, 876, 923.

In 1968, the FBI authorized interfering with a Mellon Foundation's decision of whether to give Unity Corporation, a black organization in Pittsburgh, Pennsylvania, a \$150,000

The FBI justified this aberration from traditional law enforcement programs by stating that it was dictated by the mood of the times. the FBI, as implementors of the program, thereby became the barometer of the country's mood, instead of fulfilling their statutory function of enforcing Federal laws.⁵²⁷ Evidence received by the Committee of FBI racism,⁵²⁸ bias, and strong conservative ideology hardly qualifies it to review people's politics. Moreover, the Constitution prohibits such a role and protects the very things FBI was attempting to punish.

COINTELPRO is only one example. another would be programs grouped under "anticipatory" intelligence.

FBI states: "Because the FBI's investigative responsibilities follow the contours of those entrusted to the Attorney General, the Bureau's domestic intelligence investigations ar, of necessity,

grant. The FBI contacted a confidential source within the Mellon Foundation, the grant was denied, and the Unity Corporation subsequently went bankrupt. FBI COINTELPRO Memoranda, 100-448006-171, 225.

In 1969, the FBI approved furnishing information to a responsible Harvard University official that a student who was employed by the University was involved in Students for a Democratic Society (SDS) activities. Shortly thereafter, the student lost his job. FBI COINTELPRO Memoranda, 100-449698-5, 22.

More seriously, one program was carried out wherein an anonymous letter was sent to the Black Panther Party accusing one of their members of being a police informant. FBI COINTELPRO Memoranda 100-448006-2308. Another program authorized sending a threatening letter to Huey Newton purporting to be from a follower of Eldridge Cleaver. FBI COINTELPRO Memoranda 100-448006-2209.

⁵²⁷ "MR. VERMEIRE. Why was there such a significant break in investigative techniques in 1973?

"MR. WANNALL. Principally because an analysis was made by a predecessor and a determination, I think, that we should be aware, I think as we always have been, of the climate of the times and restructure on a strict statutory basis.

"I think the history of the Bureau, and I would not bore you with details, has been one of responsiveness, an awareness of the climate of the times, and restructuring." Staff Interview with W. Raymond Wannall, FBI Assistant Director in charge of Intelligence Division; Robert L. Shackelford, Section Chief, FBI Intelligence Division, and David Ryan, supervisor, FBI Intelligence Division, By J.B.F. Oliphant, R. Vermeire, J. Atkisson and E. Miller, Nov. 5, 1975, copy on file with Sel. Comm. on Intell.

⁵²⁸ A case in point was the FBI's alleged targeting of Congressman Andrew Young, of Georgia, wherein the FBI requested Arthur Murtagh, a Special Agent, to surreptitiously obtain Congressman Young's personal stationery and handwriting sample. At the time, Congressman Young was a candidate for Congress. Comm. Hearings, testimony of Arthur Murtagh, Nov. 18, 1975.

The FBI denies the aforementioned allegation. Furthermore, Black agents presently comprise approximately 1.2 percent of FBI agent personnel. Comm. Hearings, testimony of W. Raymond Wannall, Nov. 18, 1975.

broad than investigations strictly designed to collect evidence for criminal proceedings. The FBI's domestic intelligence responsibilities have a distinct anticipatory, or preventive, purpose, requiring continuing investigative activity in cases wherein criminal conduct remains a future possibility.⁵²⁹ Whereas the evidence required to initiate an investigation under such a standard would obviously be something less than probable cause of a crime, it would nevertheless be more than mere suspicion.⁵³⁰ The FBI itself states that advocacy of an ideology alone is not sufficient grounds for classifying a group as subversive.⁵³¹

Anticipatory domestic intelligence projects, however, do create serious problems on occasion. A few examples illustrate the point.

Lori Paton testified before the committee on November 18, 1975. In 1974, Miss Paton, then a high school student, inadvertently wrote the Socialist Workers Party as an academic assignment. She intended to write to the Socialist *Labor* Party.

The FBI was conducting a "mail cover"⁵³² on the SWP and intercepted Miss Paton's misdirected letter. They immediately began an investigation of her, and the attendant publicity in Miss Paton's small town caused her great mental anguish.

The Bureau's response was that the "FBI did not publicize the fact"⁵³³ of Lori Paton's investigation, although they had interviewed her school principal and the local police chief.

⁵²⁹ Comm. Hearing, at Nov. 18, 1975. Testimony of James B. Adams, Assistant to the Director, FBI.

The Committee staff attempted to find out what triggered domestic intelligence investigations. The best answer appeared to be:

"MR. VERMEIRE. Investigation with respect to a particular crime?

"MR. SHACKELFORD. Potential crime.

"MR. VERMEIRE. Potential; is there probable cause?

"MR. SHACKELFORD. Of course not."

ibid., at 29.

Probable cause, of course, has been the traditional test for arrest, i.e., does a police officer have reason to believe a crime has been committed or is about to be committed. *Brinegar v. United States*, 338 U.S. 160, 175 (1949); *Beck v. Ohio*, 379 U.S. 89, 91 (1964); *Wong Sun v. United States*, 371 U.S. 471, 479 (1963).

⁵³⁰ Perhaps the test should be the "stop and frisk" standard of "reasonable suspicion" that a crime will be committed, enunciated in *Terry v. Ohio*, 392 U.S. 1 (1968).

⁵³¹ Staff interview with Wannall, et al., at 9.

⁵³² A mail cover is observing only what appears on the *outside* of an envelope or parcel, a practice which is carried out, of course, with the cooperation of postal authorities. The technique is perfectly legal.

⁵³³ FBI Memorandum, 11/28/75, Appendix II.

Assume, however, that Miss Paton had correctly written to the SWP, as many people undoubtedly have. That fact alone would apparently have been grounds for an anticipatory investigation, even though it is hard to imagine what crimes could be anticipated by writing a letter. In addition, the chilling effect such investigations have on first Amendment rights, including freedom of association, is painfully clear.⁵³⁴

For those who do join SWP, the chill is likely to spread to employers. The Committee heard from one witness who termed FBI's inquiries about his employee, Bruce Bloy, who was an SWP member, as "presumptive, mysterious, and . . . aggressive."⁵³⁵

Trash covers are another odious form of anticipatory investigations. The IPS trash cover has already been discussed,⁵³⁶ save for a comment on command and control. When FBI personnel were originally asked about trash covers by Committee staff, they stated: "we have not engaged in [trash covers] since July, 1966. . . We had no trash covers on the IPS."⁵³⁷ Two weeks later, at a Committee hearing, they corrected themselves. They stated that, while there was an FBI policy of not conducting trash covers, that policy was not always followed.⁵³⁸

Two memoranda show that the Bureau knew of the trash covers and recognized the risks in such a method. The concerns? The "potential harm to the FBI and the Federal Government, per se, far outweigh the potential information that could be expected."⁵³⁹ It was not risks to an

⁵³⁴ The risk may even be intended. As Dean Louis Pollak put it:

"When the official investigation long outlives its initially professed justification--that is to say, reasoned suspicion or criminal activity imminent or actually carried out--at that point it is inescapable. . . that an important consequence, if not necessarily a purpose, of the continuing investigation will be the imposition of an official stigma on the political or research activity being carried out by the "subject." Comm. Hearings, at Dec. 10, 1975.

⁵³⁵ Comm. Hearings, at, Nov. 18, 1975.

⁵³⁶ See, notes and accompanying text.

⁵³⁷ Interview with Wannall, et. al., at 26.

⁵³⁸ "MR. WANNALL. I think there have been isolated incidents where that has been done. The policy of the FBI since the middle of 1966 has been not to conduct so-called trash covers.

"MR. FIELD. Since 1966 that has been their policy. Did you testify under oath before our committee that since then, to your knowledge, trash covers have not been used?

"MR. WANNALL. I did so testify. I have since learned of one occasion where trash which was discarded by an organization was in fact recovered by an agent. It was not done with prior knowledge of FBI headquarters. Comm. Hearings, at, Nov. 18, 1975.

⁵³⁹ "[The Washington Field Office] feels it would be most unwise at this point in time to seriously consider instituting a similar operation as encompassed by the utilization of this source [the trash cover]. Potential harm to the FBI and the Federal Government, per se, far outweigh the potential information that could be expected from such a reinstated operation." FBI

individual's right of privacy that concerned the FBI.

b. Law Enforcement Turned Law-Breaking

The use of informants, albeit an effective law enforcement tool, is a method of investigation which is particularly subject to abuses of constitutional rights and rights of privacy.

The Committee heard testimony from a former FBI informant named Robert Hardy. Mr. Hardy chronicled for the Committee his role in a 1971 Camden Draft Board break-in. Pursuant to FBI instructions, he infiltrated a peaceful anti-war group in Camden, New Jersey.⁵⁴⁰ He instigated the burglary and supplied the would-be burglars with tools, money, technical assistance and encouragement.⁵⁴¹

In sum, Mr. Hardy acted as an "agent-provocateur." At one point, he attempted to halt the actual burglary, because a conspiracy had been established. His FBI handling-agents insisted that the burglary be committed.⁵⁴²

The disturbing lesson is that in the FBI system there is virtually no mechanism to control agents in charge of informants. The FBI Manual of Instructions on Informants sets forth specific guidelines for the handling of informants,⁵⁴³ yet the uniqueness and secrecy surrounding each informant's relationship with the handling-agent⁵⁴⁴ impairs the effectiveness of those instructions.

In the Hardy case, the informant-agent relationship was further complicated by political considerations.⁵⁴⁵ The defendants in a celebrated case in nearby Harrisburg, Pennsylvania, had recently been acquitted of all conspiracy counts. The FBI apparently felt that an overt act such as an actual break-in would be required to insure a conviction, even though the alleged crime of conspiracy, which was the basis of later prosecution, appears to have been completed far in advance of the actual break-in.

It should be noted that Department of Justice attorneys were advised of this situation long

Washington Field Office Memorandum to Headquarters, August, 4, 1973.

⁵⁴⁰ None of the group's members was known by the FBI to be violence-prone. Comm. Hearings, at, Nov. 18, 1975

⁵⁴¹ All of which were paid for with FBI funds. *Ibid.*

⁵⁴² The FBI's denial of this allegation appears in their Memorandum of Nov. 28, 1975, Appendix II.

⁵⁴³ FBI Manual of Instructions, "Security Informants and Confidential Sources," Section 107.

⁵⁴⁴ The FBI considers the confidentiality of the relating between a special agent and his informant to be of paramount importance. Staff briefing, FBI Intelligence Division personnel and J.B.F. Oliphant and R. Vermeire, Aug. 28, 1975, copy on file with Sel. Comm. on Intell.

⁵⁴⁵ Staff interview, Guy Goodwin, by J.B.F. Oliphant and R. Vermeire, Nov. 14, 1975, at 83, copy on file with Sel. Comm. on Intell.

before the break-in and did nothing to avert the course of events.⁵⁴⁶

The Committee investigated another example of lack of control over informants. The FBI used Robert Merritt⁵⁴⁷ as an informant on New Left activities during the early 1970's. His duties included reporting on activities at the Institute of Policy Studies. Merritt told the Committee that his FBI handling-agents instructed him to conduct break-ins, deliver unopened mail acquired illegally, and solicit and provide information to the FBI regarding homosexual proclivities of politically prominent people and individuals of the new Left.⁵⁴⁸

The FBI agents who handled Merritt denied these allegations under oath. They stated that Merritt acted on his own.⁵⁴⁹

The handling-agents stated that they terminated Merritt because they ascertained that he had provided false information on one occasion and had reason to believe he provided false information at other times in the past.⁵⁵⁰ If this was true, it does not fit with other facts. During the seven months that Merritt was an FBI informant, he provided over 100 reports on at least 25 people. He had, in fact, been categorized as "reliable" in FBI records.⁵⁵¹

No effort was ever made to "correct" the Merritt reports, by indicating that the information contained therein might be unreliable. No prosecutive actions were ever recommended as a result of Merritt's allegedly wrong actions. His efforts apparently fit well with intelligence operations.⁵⁵²

Furthermore, Merritt told staff that he had committed numerous illegal acts at the direction of District of Columbus Metropolitan Police.⁵⁵³

His FBI handling-agents stated that although they acquired Merritt from the Metropolitan Police Department, they never inquired as to the nature of his prior activities as a police informant.⁵⁵⁴ This attitude of "see no evil, hear no evil" appears to violate the seemingly rigid regulations of the FBI Manual, designed to effect the recruitment of responsible and reliable informants.

⁵⁴⁶ *Ibid.*, at 83-84.

⁵⁴⁷ Staff interview, Robert Merritt, by J.B.F. Oliphant, J. Atkisson, E. Miller. Staff memo on file with Sel. comm. on Intell.

⁵⁴⁸ *Ibid.*

⁵⁴⁹ Staff interview, FBI Special Agents Tucker and O'Connor, by J.B.F. Oliphant, J. Atkisson, Nov. 5, 1975, copy on file with Sel. comm. on Intell.

⁵⁵⁰ *Ibid.*

⁵⁵¹ *Ibid.*, at 33.

⁵⁵² Merritt interview.

⁵⁵³ *Ibid.*

⁵⁵⁴ Tucker-O'Connor Interview.

Conflicting testimony in the Merritt matter reveals the problem itself. Since FBI agents' instructions to their informants are, by necessity, given orally⁵⁵⁵ and without witnesses, it is difficult, if not impossible, to accurately fix responsibility for an informant's actions.

If the FBI agent is at fault, the problem becomes one of administrative command and control. If, however, the informant has gone bad, the problem is more difficult. For example, if an informant successfully instigates others to commit a crime, as in the Hardy matter, his FBI contact agent may overlook the informant's improper actions, because the informant is important to a case for which the FBI agent is likely to receive credit.

The risk that informants may use illegal methods is heightened when one considers the kind of person needed to infiltrate suspected criminal elements. Understating the problem, James Adams, Assistant to the Director of FBI, testified before the Committee on November 18, 1975: "[T]he informants you develop are not recruited from Sunday Schools."⁵⁵⁶ The dubious character of most informants is compounded by the fact that informants are paid cash, and their payment is commensurate with the information they furnish. The more incriminating the information, the more lucrative the reward.

Electronic Surveillance -- The Kissinger Wiretaps

In the last half-century, electronic technology has revolutionized the science of investigations. These developments also mean that "Big Brother" may be watching.⁵⁵⁷

Improper application of electronic surveillance poses obvious risks because of its enormous potential for invading privacy and the difficulty of detecting intrusion.⁵⁵⁸

Some examples follow.

In the spring of 1969, the Nixon White House was disturbed that extremely sensitive information regarding diplomatic relations and national security was leaking to the press on a fairly regular basis.

On May 9, 1969, William Beecher of the New York Times wrote an article on Cambodia which triggered a strong reaction from the White House. That day, a series of telephone calls to ascertain the source of the leaks took place. The calls were between Dr. Kissinger and J. Edgar

⁵⁵⁵ FBI Manual of Instructions, Sections 107-108.

⁵⁵⁶ Comm. Hearings, at Nov. 18, 1975.

⁵⁵⁷ "Before speaking, many people weigh the costs of speaking freely against the risk of the possible word-for-word disclosure of their conversations to unintended recipients. The comment, 'I can't talk over the telephone,' has become the trademark of mistrustful individuals." Michael Hershman, Hearings, Oct. 9, 1975, Part 3, p. 942.

⁵⁵⁸ "The nature of illegal electronic surveillance is such that most individuals remain unaware of their victimization. Furthermore, many of those who do discover that they have been bugged or tapped are reluctant to report it, because of embarrassment, publicity, and a fear of subsequent investigations. These factors combine to make it virtually impossible to estimate how much wiretapping taking place." *Ibid.*

Hoover, and between Colonel Alexander Haig and FBI personnel.⁵⁵⁹

The apparent result of these consultations was the installation of a wiretap on the residence of a National Security Council staff on May 9, 1969. Significantly, approval for this "national security" wiretap was not requested until May 10, 1969. The wiretap was requested by Col. Haig "on the highest authority,"⁵⁶⁰ and was not approved by Attorney General John Mitchell until May 12, 1969.⁵⁶¹

Seventeen persons were eventually wiretapped pursuant to this program.⁵⁶²

Although the FBI never overheard information indicating any breach of national security, the taps continued for lengthy periods of time.⁵⁶³

No approval was ever sought for extensions of the wiretaps as they continued unabated and unsupervised.⁵⁶⁴ In addition, the FBI continued to report information which can only be characterized as political or personal.⁵⁶⁵

William C. Sullivan, former Chief of Intelligence for the FBI, told staff that FBI Director J. Edgar Hoover did not regard these tapes as FBI operations, but as executive requests.⁵⁶⁶ According to Mr. Sullivan, Hoover insisted on sending copies of the transcripts directly to the White House, so the President would be apprised of the "service" FBI was providing.⁵⁶⁷

Several risks were inherent in the FBI's national security wiretaps installed for Dr. Kissinger.

The first involved wiretapping United States citizens without prior judicial approval. These dangers were recognized by the Supreme Court in 1972. The Court held that electronic surveillance

⁵⁵⁹ Staff access to relevant documents at FBI Headquarters, Oct. 30, 1975.

⁵⁶⁰ Partially deleted request, *see*, appendix.

⁵⁶¹ *Ibid.*

("Chart prepared by Committee staff from access to relevant documents at FBI Headquarters, Oct. 30, 1975, *see*, appendix.)

⁵⁶² Chart, partially deleted, *see*, Appendix.

⁵⁶³ Staff review of FBI records, Oct. 30, 1975.

⁵⁶⁴ *Ibid.*

⁵⁶⁵ *Ibid.*

⁵⁶⁶ Interview with William C. Sullivan, by J.B.F. Oliphant and R. Vermeire, Oct. 24, 1975.

⁵⁶⁷ *Ibid.*

of domestic organizations or citizens was forbidden unless prior judicial approval was obtained.⁵⁶⁸

Secondly, wiretapping State Department officials and members of the press, tends to stifle voices of criticism and dissenting views, and infringes upon freedom of the press.

Finally, the Kissinger wiretaps posed a risk that the FBI could become the tool by which an Administration in power obtains political information.

The Houston Episode

On October 9, 1975, Anthony Zavala, a former narcotics officer with the Houston Police Department who had been sentenced to three years' imprisonment on wiretap convictions, told the Committee of widespread illegal police wiretapping in Houston, Texas, from 1969 through 1972.⁵⁶⁹

Mr. Zavala recounted that wiretapping had become "second nature to us all," and "that it was all discussed freely, and that everyone knew what was going on."⁵⁷⁰

⁵⁶⁸ The Committee is not unmindful of the Supreme Court's invitation to Congress to legislate in this area:

Given these potential distinctions between Title III criminal surveillance and those involving the domestic security, Congress may wish to consider protective standards for the latter which differ from those already prescribed for specified crimes in Title III. Different standards may be compatible with the Fourth Amendment if they are reasonable both in relation to the legitimate need of Government for intelligence information and the protected rights of our citizens. For the warrant application may vary according to the governmental interest to be enforced and the nature of citizen rights deserving protection. *United States v. United States District Court*, *supra*, 407 U.S. at 322.

⁵⁶⁹ Comm Hearings, at [], Oct. 9, 1975.

⁵⁷⁰ Mr. Zavala's testimony clearly indicates that DEA (or its predecessor agency, BNDD) was similarly aware of the illegal wiretappings:

"Mr. Chairman, I understand the committee is interested in Federal officers' direct participation in wiretaps. I heard about many cases from fellow police officers. But that is hearsay. I have more direct knowledge.

"On one occasion -- in 1969 -- I was assigned by a captain to monitor a drug case . . . One night a fellow police officer introduced me to several narcotics agents, two of whom I got to know pretty well, as they kept coming and going, and listening with me to the conversations of the target. Some weeks later the suspect in the case was arrested -- by the Federal agents,

In 1973, Anthony J. P. Farris, United States Attorney for the Southern District of Texas, learned of allegations of wiretapping.⁵⁷¹ He brought this information to the attention of the FBI in the fall of 1973, and requested that the Bureau investigate.

They did not. His requests continued. Finally, in April 1974, the FBI assigned one special agent to investigate the case. He filed reports, which according to Farris were "... notable only in their lack of substance, consisting largely of Xeroxed newspaper articles."⁵⁷²

4. SALT -- Political control of intelligence

Nowhere is the risk of corrupting intelligence greater than in recent efforts to restrict and shape important data on Soviet compliance with strategic arms agreements.

Staff investigation and examination of key documents reveal that these SALT treaties, which are of grave strategic significance, were consummated without full intelligence input, that the prime

incidentally -- and afterward the three of us were discussing the wiretap at police headquarters. My two Federal friends were disturbed because the entire conversation took place in front of a high-ranking BNDD supervisor. They said I shouldn't talk about wiretapping in front of him that way. The supervisor was smiling the whole time. *Ibid*, at [].

⁵⁷¹ Mr. Farris considered the information "... of probative value." Comm. Hearings, at [], Oct. 9, 1975.

⁵⁷² *Ibid*.

The complete ineptitude of the FBI investigation of the Houston matter was brought out by Congressman Johnson's questioning of Mr. Farris:

"MR. JOHNSON. Can you tell me why in this case, when you requested information with respect to investigation of other law enforcement agencies -- in this case the Houston Police Department -- you didn't get any response from anybody who was of real significance?

"MR. FARRIS. ... In all other cases they always responded; they always performed admirably; but in this case -- the investigation of the allegations of illegal electronic surveillance by the police department in Houston -- there was not only reluctance but obvious foot dragging.

"MR. JOHNSON. ... What was the result of your contacts with Saxbe and Kelley and the others?

"MR. FARRIS. To quote myself in other hearings, zip; nothing. Saxbe didn't answer; the Assistant Attorney General Crime Section didn't answer. No one answered. I don't think they were listening.

* * *

"MR. JOHNSON. But you can characterize cooperation they received prior to that time as "zip."

"MR. FARRIS. It is not worthy of the name investigation; yes, sir.

"MR. JOHNSON. Once again, this is inconsistent with their response to other requests that you might make for other investigations?

"MR. FARRIS. That is correct." Comm. Hearings, at [], Oct. 9, 1975.